

**Town of Amherst**  
**Zoning Board of Appeals**  
***SPECIAL PERMIT***

TOWN OF AMHERST, MA  
HAMPSHIRE COUNTY  
Received & Recorded

FEB 18, 2015  
2:15 P.M.  
Bd. of Zoning Appeals  
Page 1 of 1

The Amherst Zoning Board of Appeals hereby grants a Special Permit, ZBA FY2015-00014, to formalize an existing parking area and to extend, alter, and enlarge parking, by adding five exterior spaces associated with a pre-existing non-conforming two family use, under Section 9.22 of the Zoning Bylaw, at 94 Gray Street (Map 11D, parcel 108, R-G Zoning District), subject to the following conditions:

1. All work associated with this permit shall be completed by May 15, 2015. During the time prior to commencing work, but not later than January 1, 2015, measures including painting of the smaller parking area, marking of individual spaces, and enforcement of a limitation on the number of vehicles shall occur.
2. The parking area, removal of paved surfaces, and new landscaping shall be constructed and maintained substantially in accordance with the plan prepared by Berkshire Design Group, last revised on November 18, 2014.
  - a. There shall be no more than five cars parked on the exterior and two in the garage on a regular basis.
  - b. All vehicles shall be parked on paved surfaces.
  - c. Each exterior space shall be demarked with white paint seasonally, or more often as needed.
3. The tenant parking shall be managed substantially in accordance with the Management Plan, prepared by Crossman Properties, approved by the Zoning Board of Appeals on November 20, 2014.
4. Vehicles backing out onto Gray Street shall be prohibited.
5. Any minor changes to the approved plan shall be presented to the Zoning Board of Appeals for review at a public meeting. Any substantial changes to the approved parking plan shall require modification of this Special Permit.
6. All exterior lighting shall be designed or arranged to be downcast and shall be motion sensed.

Eric Beal  
Eric Beal  
Amherst Zoning Board of Appeals

February 18, 2015  
DATE

**Town of Amherst**  
**Zoning Board of Appeals - Special Permit**

*DECISION*

**Applicant/Owner:** Killian O'Connell, 610 Station Road, Amherst, MA 01002

**Date application filed with the Town Clerk:** October 2, 2014

**Nature of request:** For a Special Permit to formalize an existing parking area and to extend, alter, and enlarge parking, by adding five exterior spaces associated with a pre-existing non-conforming two family use

**Address:** 94 Gray Street (Map 11D, Parcel 108, R-G Zoning District)

**Legal notice:** Published on September 24, 2014 and October 1, 2014 and sent to abutters on September 24, 2014

**Board members:** Eric Beal, Tom Ehrgood, Mark Parent

**Staff members:** Jeff Bagg, Senior Planner, Rob Morra, Building Commissioner

**Submissions:**

- Application form filed with the Town Clerk on October 2, 2014
- Site Plan, prepared by Berkshire Design Group, dated September 12, 2014
- Management Plan, prepared by Crossman Properties
- Existing conditions photographs (x 8) taken by Town staff
- Email from Bob DiCarlo, 86 Gray Street, dated November 4, 2014
- Town staff email dated March 6, 2014
- Rental Permit application dated December 13, 2013
- Town GIS lot coverage map, dated March 6, 2014

**Public Hearing:** **October 9, 2014**

The public hearing was rescheduled to November 20, 2014 to avoid a recognized religious holiday and a scheduling conflict with the applicant.

**Site Visit:** **November 4, 2014**

Mr. Parent and Mr. Ehrgood met the property manager, Thomas Crossman, at the site and observed the following:

- The location of the expanded parking area at the rear and side of the property.
- The approximate location of the proposed reconfigured parking area, as marked out on the site with white paint by Town staff.

**Public Hearing:** **November 6, 2014**

The applicant, Killian O'Connell, was accompanied by his property manager Thomas Crossman, and contractor, Isiah Robinson.

In connection with the Town's Rental Permit program, the applicant, Killian O'Connell, is seeking a Special Permit to formalize an expanded parking area. The owner identified that when he purchased the property in August 2012 the parking was occurring haphazardly in the driveway and garage. The winter parking ban made the parking arrangements even worse. In the spring of 2013, a new gravel parking area was constructed behind and along the south side of the dwelling. The intention was to enhance and improve the property by providing enough parking for the two four bedroom units.

In February, the Town notified the owner that the expansion of the parking would have required a Special Permit. It was also identified that based on Town GIS calculations; the expanded parking area exceeded the maximum allowed lot coverage.

The Board discussed the proposed site/parking plan. It was identified that the plan would reduce the amount of gravel on the property from 59.4% coverage to 39.9 % coverage and would reduce the number of parking spaces to five exterior parking spaces each at 9 feet wide by 18 feet in length. A small turnaround area is proposed. In order to comply with the maximum 40% total lot coverage limit, an existing walk and a significant amount of gravel would be removed, loamed and seeded with grass.

The Board discussed how the existing parking area was constructed. Mr. Robinson explained that it had been constructed with a 12 inch base and top coat as required by the Zoning Bylaw. The Board noted that the parking area appeared to be in good condition with no ruts or ponding of water.

The Board discussed how the parking area would be delineated. The applicant noted that while the plan noted that a cobblestone edge would be used, they requested that recycled granite curbing be used instead.

The Board discussed how each space would be delineated. The applicant proposed painting the lines on the gravel each year. The Board discussed the potential need to paint the lines more often or as needed.

The Board discussed the size of the turnaround area and noted that it was too small to provide proper maneuvering. It was identified that if some of the spaces were reduced in size, it could allow the turnaround size to increase. A reduced length parking space could eliminate the need to cut into an existing embankment on the west side of the property. The Board was agreeable to allowing the reduction in the size of three of the spaces.

The Board discussed screening. It was noted that the abutting property owner to the south submitted a letter recommending that no additional screening is needed along the south property line. The Board noted the existence of an existing berm with plantings situated between the parking area and Gray Street. The Board noted that one of the existing arborvitaes was dead and would need to be replaced. Additionally, the removal of the walkway would require construction of the berm in that location.

The Board discussed lighting. It was identified that a motion sensor light exists at the rear of the building along with more typical porch fixtures along the south side of the building.

The Board finds under Section 9.22, the following:

9.22 - *The Special Permit Granting Authority authorized to act under the provisions of Section 3.3 of this bylaw may, under a Special Permit, allow a non-conforming use of a building, structure or land to be changed to a specified use not substantially different in character or in its effect on the neighborhood or on property in the vicinity. Said Authority may also authorize, under a Special Permit, a non-conforming use of a building, structure, or land to be extended, or a non-conforming building to be structurally altered, enlarged or reconstructed; provided that the Authority finds that such alteration, enlargement, or reconstruction shall not be substantially more detrimental to the neighborhood than the existing non-conforming use or non-conforming building.* The Board finds that the expansion of the parking area to five exterior spaces (and two garage spaces) is not substantially more detrimental to the neighborhood for the following reasons:

- The neighborhood is a mix of multifamily rentals, single family rentals and owner occupied dwellings. The parking of five vehicles at the rear of the property is consistent with other uses in the vicinity.
- The proposal provides suitable off street parking that is screened from Gray Street.
- The plan reduces the excessive lot coverage and provides five parking spaces and a turnaround area within the maximum total lot coverage of 40%.

Prior to rendering a final decision, the Board requested the applicant provide the following:

- A revised site/parking plan including the following:
  - Changes to provide compact spaces and enlarged turnaround; updated lot coverage calculations
  - Change from cobblestone edging to granite curb and confirmation of construction design
  - Some method to prevent vehicle parking on lawn near garage
  - Completion of berm and plantings
- Updated Management Plan

Mr. Beal MOVED to continue the hearing to November 20, 2014 at 6:00 p.m. Mr. Parent SECONDED the motion and the Board VOTED to continue the hearing.

Public Hearing: November 20, 2014

The following new information was submitted:

- Revised Site Plan, prepared by Berkshire Design Group, dated November 18, 2014
- Revised Management Plan, prepared by Crossman Properties
- Draft decision and conditions from initial hearing, prepared by staff

The applicant's property manager, Tom Crossman, and contractor, Isiah Robinson, were present and noted the following:

- The plan was revised to show three spaces reduced in size to 8.5 feet by 16 feet.
- The turnaround area was enlarged
- Some plantings were added to the open area adjacent to the existing garage
- Notation of lighting type and location
- Notation of areas of gravel to be removed and replaced with loam and seed
- Notation of the delineated curb material and parking area depth
- Notation of updated lot coverage calculation
- Area of walkway to be replaced with berm and planting

The Board found the revised plans acceptable. The Board discussed the timeline for requiring the upgrade and changes to the parking area. Noting the inability to complete the work in the winter, the Board identified a completion date of May 15, 2015. However, the Board determined that the existing oversized gravel parking area should be stripped with white paint to indicate the reduced size parking area. The Board requested that the owner seek compliance with the painted parking arrangement through the winter and until the work is completed.

**Specific Findings:**

The Board finds under Section 10.38 of the Zoning Bylaw, Specific Findings required of all Special Permits, that:

10.380 & 10.381 - *The proposal is suitably located in the neighborhood in which it is proposed and/or the total Town, as deemed appropriate by the Special Permit Granting Authority; The proposal is compatible with existing Uses and other Uses permitted by right in the same District.* The proposal to provide five parking spaces on the property is not out of character with other parking arrangements on properties in the vicinity. The reduced number of parking spaces on the property complies with the maximum lot coverage available to other properties in the District.

10.382, 10.383 & 10.385 - *The proposal would not constitute a nuisance due to air and water pollution, flood, noise, odor, dust, vibration, lights, or visually offensive structures or site features; The proposal would not be a substantial inconvenience or hazard to abutters, vehicles or pedestrians; The proposal reasonably protects the adjoining premises against detrimental or offensive uses on the site, including air and water pollution, flood, noise, odor, dust, vibration, lights or visually offensive structures or site features.* The proposal will reduce the overall size of the gravel parking area to a conforming lot coverage and will correct a violation created in 2013. The provision for five exterior parking spaces will not create a nuisance or inconvenience because the parking area will be screened from Gray Street; abuts the Amherst Regional High School to the west; and is adjacent to other rental properties to the north. The Board accepted the letter from the abutting property owner to the south in support of the plan as evidence that it will reasonably protect that property.

10.386 - *The proposal ensures that it is in conformance with the Parking and Sign regulations (Articles 7 and 8, respectively) of this Bylaw.* The Board made the following findings relative to Article 7:

7.0000 - *Two (2) parking spaces for each dwelling unit. The proposal provides for a total of seven parking spaces (five exterior and two garage spaces) for two units. The Bylaw requires a minimum of four spaces. Therefore, the proposal exceeds the minimum requirement.*

7.0001 - *Parking spaces for cars or similar vehicles shall be on a paved surface such as concrete, bituminous asphalt, masonry pavers, oil and stone, gravel, trap rock, or a similar material (see Section 7.101); 7.101- Paving: For the purposes of this bylaw, a paved parking surface shall be considered to be one which has a prepared subgrade and compacted gravel base with a minimum total 12 inch depth, appropriate grading and drainage, and which is surfaced with a minimum 2 inch top coat of concrete, asphalt, masonry pavers, oil and stone, gravel, trap rock, or similar material, as approved or modified by the Town Engineer. To the extent feasible, permeable or porous paving shall be employed in new construction or site renovations or improvements.*

The revised site plan identifies that the expanded parking area, when reconfigured, will be constructed with a 12 inch compacted gravel base and minimum 2 inch top coat of material. The Board allowed the approved plan to be annotated such that the top coat may be reclaimed asphalt and not bituminous blacktop and still comply with the requirements.

7.104 - Dimensions, Marking & Delineation - Parking areas shall be clearly delineated and shall be provided with a permanent dust-free surface and adequate drainage; Each parking space shall be at least 9 feet x 18 feet in size, and all parking areas must have adequate access and maneuvering areas; In all parking areas of five (5) or more parking spaces, individual spaces shall be painted, marked or otherwise delineated in a manner sufficient to visibly identify said spaces. The proposal, as shown on the approved site plan, will delineate the south and east edge of the parking area with granite curbing raised approximately six inches above the finished surface. The area adjacent to the garage will be delineated by the removal of existing gravel and loamed and seeded in grass. Conditions of the permit require that the edge between grass and gravel be maintained and that each individual space be demarked by white paint seasonally or more often as needed.

7.105 - Lighting: adequate lighting shall be provided for all parking areas of 5 spaces or more if these areas are to be used at night. All exterior site lighting associated with parking areas shall be downcast and shall be directed or shielded to eliminate light trespass onto any street or abutting property and to eliminate direct or reflected glare perceptible to persons on any street or abutting property and sufficient to reduce a viewer's ability to see. Based on the approved site plan and a condition of the permit requires that exterior lighting be downcast and motion sensor activated.

10.398- The proposal is in harmony with the general purpose and intent of this Bylaw, and the goals of the Master Plan. The proposal provides for the removal of a violation and the creation of a parking plan that complies with all relevant provisions of the Zoning Bylaw and is the "most appropriate use of the land" on this property and neighborhood.

### **Zoning Board Decision**

Mr. Parent MOVED to approve the application with conditions. Mr. Ehrgood seconded the motion.

For all of the reasons stated above, the Board VOTED unanimously to grant a Special Permit, ZBA FY2015-00013, to formalize an existing parking area and to extend, alter, and enlarge parking, by adding five exterior spaces associated with a pre-existing non-conforming two family use, under Section 9.22 of the Zoning Bylaw, at 94 Gray Street (Map 11D, parcel 108, R-G Zoning District), subject to conditions.

Eric Beal  
ERIC BEAL

(13)

Tom Ehrgood  
TOM EHrgOOD

(13)

Mark Parent  
MARK PARENT

(13)

FILED THIS \_\_\_\_\_ day of \_\_\_\_\_, 2015 at \_\_\_\_\_,  
in the office of the Amherst Town Clerk \_\_\_\_\_.  
TWENTY-DAY APPEAL period expires, \_\_\_\_\_ 2015.  
NOTICE OF DECISION mailed this 19<sup>th</sup> day of February, 2015  
to the attached list of addresses by Jo Ann R. Bagg, for the Board.  
CERTIFICATE OF NO APPEAL issued this \_\_\_\_\_ day of \_\_\_\_\_, 2015.  
NOTICE OF PERMIT or Variance filed this \_\_\_\_\_ day of \_\_\_\_\_, 2015,  
in the Hampshire County Registry of Deeds.

THE COMMONWEALTH OF MASSACHUSETTS  
AMHERST

City or Town  
**NOTICE OF SPECIAL PERMIT**  
**Special Permit**  
**(General Laws Chapter 40A)**

Notice is hereby given that a Special Permit has been granted

To Killian O'Connell  
Address 610 Station Road  
City or Town Amherst, MA 01002

Identify Land Affected: 94 Gray Street  
(Map 11D, Parcel 108, R-G Zoning District)

By the **Town of Amherst Zoning Board of Appeals** affecting the rights of the owner  
with respect to the use of the premises on

94 Gray Street Amherst  
Street City or Town  
The record of title standing in the name of  
Killian O' Connell  
Name of Owner  
Whose address is 610 Station Road Amherst MA 01002  
Street City or Town State Zip Code

By a deed duly recorded in the

**Hampshire County Registry of Deeds:** Book 11029 Page 296  
or

**Hampshire Registry District of the Land Court**, Certificate No. \_\_\_\_\_,  
Book \_\_\_\_\_, Page \_\_\_\_\_

The decision of said Board is on file, with the papers, in ZBA FY2015-00014 In the  
office of the Town Clerk Sandra J. Burgess

Certified this \_\_\_\_\_ day of \_\_\_\_\_

**Board of Appeals:**

Eric Beal JB Chairman  
(Board of Appeals)  
Tom Thurgood JB Clerk  
(Board of Appeals)

\_\_\_\_\_ at \_\_\_\_\_ o'clock and \_\_\_\_\_ minutes \_\_\_\_\_ m.  
Received and entered with the Register of Deeds in the County of Hampshire  
Book \_\_\_\_\_ Page \_\_\_\_\_

ATTEST \_\_\_\_\_

Register of Deeds  
Notice to be recorded by Land Owner

**BOARD OF APPEALS  
AMHERST, MASSACHUSETTS  
RECORD OF APPEALS AND DECISION RENDERED**

Petition of Killian O'Connell

For A Special Permit to formalize an existing parking area and to extend, alter, and enlarge parking, by adding five exterior spaces associated with a pre-existing non-conforming two family use.

On the premises of 94 Gray Street  
At or on (Map 11D, Parcel 108, R-G Zoning District)

NOTICE of hearing as follows mailed (date) September 24, 2014  
to attached list of addresses and published in the Daily Hampshire Gazette  
dated September 24, 2014 and October 1, 2014

Hearing date and place October 9, 2014, November 6, 2014 and November 20, 2014  
(Town Hall)

**SITTING BOARD and VOTE TAKEN:**

To grant a Special Permit, ZBA FY2015-00013, to formalize an existing parking area and to extend, alter, and enlarge parking, by adding five exterior spaces associated with a pre-existing non-conforming two family use, under Section 9.22 of the Zoning Bylaw, subject to conditions

Mark Parent – Yes                      Eric Beal – Yes                      Tom Ehrgood – Yes

**DECISION: APPROVED with conditions**



# Town of Amherst Abutter List

Parcel ID	Parcel Address	Owner1	Owner2	Address	City/Zip
11D-279	GRAY ST	LEWIS, VIRGINIA		129 GRAY ST	Amherst, MA 01002
14B-73	61 GRAY ST	NIELSEN, NIELS & TERESA J		80 MIDDLE ST	AMHERST, MA 01002
14B-16	62 GRAY ST	ST HILAIRE, ALAN P. & CHRISTINA CARRERA		4 HAWKINS MEADOW DR	HADLEY, MA 01035
11D-106	78 GRAY ST	JANSE, STEPHEN D		78 GRAY ST	AMHERST, MA 01002
11D-117	83 GRAY ST	REGISH, JOHN P		8 RIVER DR	HADLEY, MA 01035
11D-107	86 GRAY ST	DICARLO, BONNI & ROBERT		86 GRAY ST	AMHERST, MA 01002
11D-116	91 GRAY ST	HANKE, MICHAEL A & MARSHALL, ANN W.		91 GRAY ST	AMHERST, MA 01002
11D-108	94 GRAY ST	O'CONNELL, KILLIAN R		610 STATION RD	Amherst, MA 01002
11D-115	97 GRAY ST	CHERNOFF, MICHAEL L & JAYMIE W		97 GRAY ST	AMHERST, MA 01002
11D-109	100 GRAY ST	HASHEMI, ABOLHASSAN & ZOHREH		580 MIDDLE ST	AMHERST, MA 01002
11D-114	105 GRAY ST	LEIGHT, PETER W & BRUZELIUS, MARGARET		105 GRAY ST	AMHERST, MA 01002
11D-110	106 GRAY ST	GU, THOMAS T		782 NORTH EAST ST	Amherst, MA 01002
11D-202	110 GRAY ST	GRYBKO, MICHAEL L & VALENTINE, RACHAEL L		110 GRAY ST	AMHERST, MA 01002
11D-113	129 GRAY ST	LEWIS, VIRGINIA		129 GRAY ST	AMHERST, MA 01002

<i>Parcel ID</i>	<i>Parcel Address</i>	<i>Owner1</i>	<i>Owner2</i>	<i>Address</i>	<i>City/Zip</i>
11D-119	86 HIGH ST	SALWEN, NATHAN	MORRELLO, SUSAN	86 HIGH ST	AMHERST, MA 01002
11D-120	92-94 HIGH ST	RBAB REALTY LLC		37 COLES MEADOW RD	NORTHAMPTON, MA 01060
11D-121	100 HIGH ST	SCHREIBER, STEPHEN & THURBER, JANE C		100 HIGH ST	AMHERST, MA 01002
11D-215	21 MATTOON ST	AMHERST PELHAM REG SCHOOL DIST		21 MATTOON ST	AMHERST, MA 01002
11D-216	TAYLOR ST	AMHERST PELHAM REG SCHOOL DIST		CHESTNUT ST	AMHERST, MA 01002
11D-101	10 TAYLOR ST	KEEGAN, BARBARA A LIFE ESTATE		10 TAYLOR ST	AMHERST, MA 01002
11D-102	18 TAYLOR ST	DABROWSKI, ALTHEA M & THADDEUS E	C/O DABROWSKI, ALTHEA M & ET AL	C/O SIBYL JAYNE 18 TAYLOR ST	AMHERST, MA 01002
11D-104	26 TAYLOR ST	BEAUDOIN, RICHARD A & DOUVILLE, LEA M		26 TAYLOR ST	Amherst, MA 01002
14B-11	29 TAYLOR ST	BARBER, LOIS JEWEL		29 TAYLOR ST	AMHERST, MA 01002
14B-15	35 TAYLOR ST	LENNON, ELISE JANE		35 TAYLOR ST	AMHERST, MA 01002
11D-105	36 TAYLOR ST	REYNOLDS, CHRISTOPHER & DEBORAH GREENE		324 NO LEVERETT RD	LEVERETT, MA 01054
11D-118	56 TAYLOR ST	LUKAS, HENRY G & LUKAS, PATRICIA E		56 TAYLOR ST	AMHERST, MA 01002
14B-74	62 TAYLOR ST	VERGLAS, KATRIN		62 TAYLOR ST	AMHERST, MA 01002
14B-75	70 TAYLOR ST	HARBISON, SHERRILL		70 TAYLOR ST	AMHERST, MA 01002